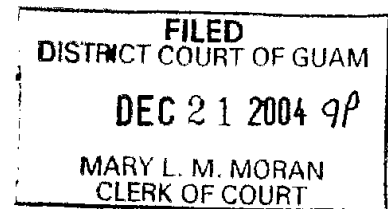


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12 IN THE UNITED STATES DISTRICT COURT

13 DISTRICT OF GUAM

14 LOURDES P. AGUON-SCHULTE,

15 Plaintiff,

16 -v-

17 THE GUAM ELECTION COMMISSION, et. al.

18 Defendants.

19 JAY MERRILL, et. al.,

20 Plaintiffs,

21 -v-

22 THE GUAM ELECTION COMMISSION, et. al.

23 Defendants.

CIVIL CASE NO. 04-00045

(Superior Court of Guam  
Civil Case No. CV1103-04)

CIVIL CASE NO. 04-00046

(Superior Court of Guam  
Civil Case No. CV1111-04)

**THE GOVERNOR OF GUAM'S  
SUPPLEMENT TO HIS OPPOSITION  
TO PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT**

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**ORIGINAL**

1 The Governor of Guam, Felix P. Camacho (the "Governor"), respectfully submits  
2 this supplement to his opposition to plaintiffs' motion for summary judgment. At the time the  
3 Governor was required to submit his opposition to the motion for summary judgment, the  
4 deposition transcript of Gerald Taitano, Executive Director of the Guam Election Commission,  
5 had yet to be prepared. The transcript is now complete, and a copy of it is attached as Exhibit "4"  
6 to the Declaration of Daniel M. Benjamin ("Benjamin Decl.") submitted concurrently herewith.  
7 The Governor now wishes to alert the Court to the certain relevant testimony by Mr. Taitano.  
8

9 First, Mr. Taitano testified that the ballot pamphlet for Proposal A was prepared  
10 consistent with the prior practice of the Commission as to all previous initiatives:

11 If you read the law, there has never been – well, first of all,  
12 it is my reading of the statute that what needs to be presented to the  
13 voters is a copy of the measure. Now, the measure, if you go into  
14 the law and read what a measure is – and you gotta differentiate  
15 that from an initiative measure. The measure on its own says, what  
16 is the question.

17 ***So if I presented the voters a copy of what the question is***  
18 ***going to be on the ballot, that, to me, is sufficient notification***  
19 ***under the law.*** That is the way that this initiative was presented.  
20 That was the way that the initiative on the minimum drinking age  
21 was presented, and ***that is the way all other initiatives in GEC's***  
22 ***history has always been presented.***

23 It is ludicrous to send out an 80-page document to every  
24 voter on this island because of the cost associated with it. What  
25 the Election Commission staff and our practice is, take a look at  
26 the measure. What is the measure? The measure is the question.  
27 And in the information pamphlet that we sent out, it had, this is the  
28 way it's going to show; initiative measure, an explanation, the 100-  
word document developed by counsel, and then the question. And  
then in the Chamorro and in the English, the two official languages  
of this island.

(Benjamin Decl. Exh. "4" at 21:1-23 (emphasis added)); accord *Id.* at 39:11-14.) Therefore,  
proponents of Proposal A cannot credibly claim they received different treatment due to the bias  
they claim existed against their initiative (especially as they have introduced no evidence of bias

1 despite carrying the burden of proof and burden of production on this summary judgment  
2 motion).

3           *Second*, Mr. Taitano testified that copies of Proposal A were available to the public  
4 on the Commission's website and at its office. (*Id.* at 23:7-11.) He further testified that the  
5 Commission delivered copies to the Guam Public Library, to the Robert F. Kennedy Library at  
6 the University of Guam, and to the Office of the Public Auditor. (*Id.* at 45:10-20.) He also  
7 testified that the Commission delivered copies of Proposal A to all village mayors through the  
8 Mayor's Office for purposes of having it posted, which delivery method was the standard  
9 procedure for the Commission. (*Id.* at 34:19-25.) This further supports the compliance and  
10 substantial compliance arguments raised by the Commission and the Governor in opposition to  
11 the summary judgment motion.  
12

13           Dated this 20<sup>th</sup> day of December, 2004.  
14

15           OFFICE OF THE GOVERNOR OF GUAM  
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